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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
4

5 TAMIR HAMILTON,

6 Petitioner,

7 v.

8 WILLIAM GITTERE, *et al.*,

9 Respondents.
10

Case No. 3:18-cv-00555-RFB-WGC

SCHEDULING ORDER

11
12 This action is a petition for writ of habeas corpus by Tamir Hamilton, a Nevada prisoner
13 sentenced to death. On January 16, 2019, the Court granted Hamilton's motion for appointment
14 of counsel and appointed counsel to represent him. *See* Order entered January 16, 2019 (ECF No.
15 11). Counsel appeared for Hamilton on January 25, 2019 (ECF No. 12).

16 Pursuant to Federal Rule of Civil Procedure 16(b), the Rules Governing Section 2254
17 Cases in the United States District Courts, and Local Rule 16-1, the Court will set a schedule for
18 further proceedings in this action. The Court will also direct the Clerk of the Court to update the
19 docket for this case to properly reflect the identity of the respondent state attorney general.

20 **IT IS THEREFORE ORDERED** that the following schedule will govern further
21 proceedings in this case:

22 1. Amended Petition. If necessary, the petitioner must file and serve an amended
23 petition for a writ of habeas corpus within 90 days after the entry of this order. The amended
24 petition must specifically state whether each ground for relief has been exhausted in state court;
25 for each claim that has been exhausted in state court, the amended petition must state how, when,
26 and where that occurred. If the petitioner determines that an amended petition need not be filed,
27 then, within the time for the filing of an amended petition, the petitioner is to file and serve a
28 statement to that effect.

1 2. Response to Petition. Respondents will have 60 days following service of the
2 amended petition to file and serve an answer or other response to the amended petition. If the
3 petitioner does not file an amended petition, the respondents will have 60 days following the
4 due-date for the amended petition to file and serve an answer or other response to the original
5 petition.

6 3. Reply and Response to Reply. Petitioner will have 45 days following service of an
7 answer to file and serve a reply. Respondents will thereafter have 30 days following service of a
8 reply to file and serve a response to the reply.

9 4. Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner
10 will have 30 days following service of the motion to file and serve an opposition to the motion.
11 Respondents will thereafter have 30 days following service of the opposition to file and serve a
12 reply.

13 5. Discovery. If the petitioner wishes to move for leave to conduct discovery,
14 Petitioner must file and serve such motion concurrently with, but separate from, the response to
15 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for leave to
16 conduct discovery filed by Petitioner before that time may be considered premature and may be
17 denied without prejudice on that basis. Respondents must file and serve a response to any such
18 motion concurrently with, but separate from, their reply in support of their motion to dismiss or
19 their response to Petitioner's reply. Thereafter, Petitioner will have 20 days to file and serve a
20 reply in support of the motion for leave to conduct discovery. If the Court grants Petitioner leave
21 to conduct discovery, the Court will then establish time limits for the completion of the
22 authorized discovery.

23 6. Evidentiary Hearing. If the petitioner wishes to request an evidentiary hearing,
24 Petitioner must file and serve a motion for an evidentiary hearing concurrently with, but separate
25 from, the response to Respondents' motion to dismiss or the reply to Respondents' answer. Any
26 motion for an evidentiary hearing filed by Petitioner before that time may be considered
27 premature and may be denied without prejudice on that basis. The motion for an evidentiary
28 hearing must specifically address why an evidentiary hearing is required and must meet the

1 requirements of 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was
2 held in state court, and, if so, state where the transcript is located in the record. If Petitioner files
3 a motion for an evidentiary hearing, Respondents must file and serve a response to that motion
4 concurrently with, but separate from, their reply in support of their motion to dismiss or their
5 response to Petitioner's reply. Thereafter, Petitioner will have 20 days to file and serve a reply in
6 support of the motion for an evidentiary hearing.

7 7. Status Reports and Status Conferences. The Court may from time to time, as the
8 need arises, schedule status conferences, and/or require the filing and service of status reports, in
9 order to manage the progress of this action.

10 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure 25(d),
11 Aaron Ford is substituted for Adam Paul Laxalt as the respondent state attorney general. The
12 Clerk of the Court is directed to update the docket for this case to reflect this change.

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14 DATED this 29th day of January, 2019.

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RICHARD F. BOULWARE, II,
UNITED STATES DISTRICT JUDGE